

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 21 2006

U.S. PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte CARLAMBROGIO BIANCHI  
MASSIMILIANO TONIN and DAVIDE BAIO

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Application 10/725,359

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was received electronically at the Board of Patent Appeals and Interferences on September 8, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

The Examiner's Answer mailed April 10, 2006 does not list the Evidence Relied Upon in the rejections of the appealed claims. On page 2 of the examiner's answer beneath the heading **(8) Evidence Relied Upon** the examiner states "[n]o evidence is relied upon by the examiner in the rejection of the claims under appeal."

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The Manual Of Patent Examining Procedure (MPEP) § 1207.02(A) (8th ed., Rev. 3, August 2005) defines the heading as follows:

(8) *Evidence Relied Upon*. A listing of the evidence relied on (e-g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

The examiner's § 103 rejection is based wholly or in part on prior art references, and these references along with any other evidence relied upon in the rejections are to be listed accordingly beneath the Evidence Relied Upon heading. Correction is required.

Another matter that requires the examiner's attention before returning the application to the BPAI is the Information Disclosure Statement (IDS) filed April 7, 2005. The examiner has not initialed and dated the 1449 of the IDS to indicate consideration of same.

Accordingly, it is


ORDERED that the application is returned to the Examiner

a) to issue a revised Examiner's Answer listing the evidence relied upon in the rejection(s) of the appealed claims,

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- b) for proper consideration of the IDS filed April 7, 2005, and
- c) for such further action as may be appropriate.

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By:   
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DMS/vsh

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